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March 2, 2004

VIA ELECTRONIC FILING
Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Ex Parte Notification (IB Docket Nos. 02-324, 96-261)*

Dear Ms. Dortch:

On March 1, 2004, Barbara Phillips, Vice President – Public Policy, Vodafone Americas, Inc. ("VAI"), and the undersigned met with Commissioner Kathleen Q. Abernathy and her Legal Advisor, Jennifer Manner, to discuss the above-referenced dockets. VAI discussed the issues raised in its comments and reply comments to the *Notice of Proposed Rulemaking* relating to foreign mobile termination. VAI distributed the attached discussion points during the meeting.

Pursuant to section 1.1206(b) of the Commission's rules, an electronic copy of this letter is being filed.

Respectfully Submitted,

Adam D. Krinsky

Adam D. Krinsky

cc: The Honorable Kathleen Q. Abernathy
Jennifer Manner

VODAFONE *EX PARTE* PRESENTATION
IB Docket No. 02-324

- **There Is No Discrimination against US Consumers in Mobile Termination Rates ("MTRs")**
  - MTRs are non-discriminatory for domestic and international calls in all markets in which Vodafone operates.

- **US Consumers Are Benefiting from Overseas Regulatory Actions to Reduce MTRs**
  - Overseas regulators have strong incentives to address MTR issues and are doing so.
  - Overseas consumers, carriers and regulators are aligned with their U.S. counterparts – unlike the benchmarks proceeding.
  - Many foreign regulators have reduced MTRs and are engaged in proceedings which are expected to lower MTRs further.
  - Reductions have occurred in many of the major markets for US international calling. MTRs have been falling rapidly – by at least 10% per year in most European markets.
  - The EU's Independent Regulators Group issued Implementation and Best Practices Principles for MTRs in Nov. 2003; the European Regulators Group initiated a public consultation in Dec. 2003 on consistent competition remedies that address MTRs.

- **Any Unilateral FCC Initiative with a Multilateral Impact Would Be Unwarranted and Damaging**
  - Foreign governments – including those addressing MTRs – will view Commission action as unilateral and intrusive (note, for example, the EU's comments).
  - Many ongoing regulatory reviews are scheduled to conclude in the first half of 2004; the FCC should not prejudge ongoing overseas regulatory processes.

- **US Interexchange Carriers' ("IXC") End User Charges Are An Appropriate Focus for the Commission**
  - A recent study concluded that US IXCs impose foreign mobile termination "surcharges" that are substantially higher than MTRs in many markets.
  - US IXCs do not appear to have passed cost savings from significant downward movement in MTRs on to their end user customers.

- **The US IXC MTR Benchmarks Proposal Is Poor Public Policy and, in Any Event, Would Be Ineffectual**
  - It is beyond dispute that the termination of calls on a mobile network is more costly than fixed network termination. Further, in CPP markets economically efficient recovery of costs must account for factors such as fixed, joint and common costs, as well as demand conditions for outbound calling.
  - In any event, it is unlikely that Commission action would have its intended effect. If the FCC were to take unilateral action, foreign correspondent carriers may be put in an untenable position faced with losses for terminating US traffic destined for mobile networks.

- **Given the Scale and Scope of Foreign Regulatory Activity, and the Strong Incentives of Overseas Customers, Carriers, and Regulators – Which Align with US Interests – There is No Reason for the FCC to Interject Itself in the MTR Issue.**